

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

CAD 074126681
Part C 45-
FILED

SEP 1 1989

In re:
ALUMINUM COMPANY OF AMERICA
Respondent.

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ENVIRONMENTAL PROTECTION AGENCY
REGION IX
HEARING CLERK

Docket No. TSCA-09-89-0015

ANSWER OF ALUMINUM COMPANY OF AMERICA
AND REQUEST FOR HEARING

I

ANSWER

Alcoa admits only the existence of the statutes and regulations cited therein but generally denies that it has violated any of them. Alcoa generally denies that any conduct or action by it has violated Section 15 of TSCA, 15 U.S.C. § 2614, or that it is liable for any civil penalties under TSCA. Alcoa admits the nature of Complainant's action, the place of incorporation and business of Alcoa, and the authority of the Regional Administrator to file a Complaint.

COUNT I

1. Admitted as to Aluminum Company of America.

2. Admitted.

3. Alcoa admits only that it owned hydraulic systems, namely a straightening press, a peeler and a forge press, that had contained PCBs. All other allegations of Paragraph 3 are denied. Alcoa specifically denies that it operated any of

these hydraulic systems after the enactment of TSCA and that it is subject to 40 C.F.R. 761.30(e).

4. The cited regulation speaks for itself and, therefore, Alcoa denies any such allegations in conflict with it.

5. Alcoa admits that it failed to test the straightening press and the peeler by the specified date and to reduce the PCB concentration in all of the systems to less than 50 ppm but denies that such inaction is a violation of the regulations cited in Paragraph 5. These hydraulic systems have not been operated at the Facility since the enactment of TSCA.

COUNT II

1. The Answers to Paragraph Numbers 1 and 2 of Count I are incorporated herein as if set forth in full.

2. Alcoa admits that prior to 1988 it owned and operated PCB capacitors at the Facility and that it owned PCB hydraulic systems at the time of inspection, but Alcoa denies that it is subject to the requirements of the regulation cited in Paragraph 2. Any PCB contamination from these systems occurred prior to the enactment of TSCA and therefore Alcoa is not in violation of TSCA as a result of such contamination.

3. Admitted with respect to spills, leaks and uncontrolled discharges occurring after the enactment of TSCA.

4. Admitted that the inspectors obtained documentation (analytical reports on concrete borings) tending to show prior PCB contamination at various locations in the facility. Denied that Alcoa is in violation of TSCA as a result of such prior PCB contamination.

COUNT III

1. The Answers to Paragraph Numbers 1 and 2 in Count I are incorporated herein as if set forth in full.

2. Denied that Alcoa stored the forge press for disposal. On the contrary, such forge press had been stored for sale. Denied that Alcoa is subject to the requirements of the regulations cited in Paragraph 2 as a result of the storage of such forge press.

3. Admitted.

4. Admitted.

5. Denied that Alcoa was storing the forge press for disposal. Denied that Alcoa is in violation of any of the regulations cited in Paragraph 5.

COUNT IV

1. The Answers to Paragraph Numbers 1 and 2 of Count I are incorporated herein as if set forth in full.

2. Admitted.

3. Admitted.

4. Admitted that Alcoa failed to prepare PCB annual documents for the calendar years 1979, 1980, 1981 and 1983. Denied that Alcoa failed for calendar years 1983 through 1987 to include all information specified by the regulations referred to in Paragraph 4.

II

PROPOSED CIVIL PENALTY

Alcoa avers that the proposed civil penalties for Counts I, II and III are inappropriate based upon its averments set forth above in its Answer that it has not violated either TSCA or any regulations promulgated thereunder, and that, assuming arguendo any of its actions are found to constitute a violation of law or regulation, such proposed civil penalties would be excessive in light of the nature, circumstances, extent and gravity of the alleged violations, Alcoa's history of compliance with

TSCA, its degree of culpability and such other matters as justice may require.

Alcoa agrees with the civil penalty proposed as to Count IV of the Complaint.

III

NOTICE OF OPPORTUNITY FOR HEARING


Alcoa hereby requests a Hearing as provided in TSCA Section 16(a) and in accordance with the Administrative Procedure Act, 5 U.S.C. Section 552 et seq., to contest both the disputed material facts and the appropriateness of the proposed penalties.

IV

SETTLEMENT CONFERENCE

Alcoa has requested an informal settlement conference in this case.

Respectfully submitted,


Kevin L. McKnight
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Pittsburgh, PA 15219
(412) 553-4352
Attorney for Respondent
Aluminum Company of America

Date: August 31, 89

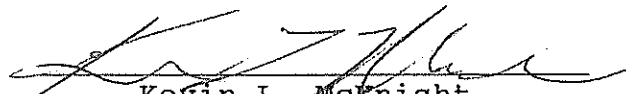
CERTIFICATE OF SERVICES

I hereby certify that an original and one copy of the foregoing Answer of Aluminum Company of America and Request for Hearing was served upon the following via express mail, postage pre-paid, on August 31, 1989:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region IX
215 Fremont Street
San Francisco, CA 94105

and

David M. Jones
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
215 Fremont Street
San Francisco, CA 94105


Kevin L. McKnight

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